

## HUMAN SERVICES BOARD

## INTRODUCTION

The petitioner was unable to appear at the first hearing scheduled for October 31, 2007 due to a dental emergency. The hearing was rescheduled for December 5, 2007. Petitioner requested that the matter be decided based on the information she provided to the Department rather than through testimony at a hearing. Petitioner does not dispute the income figures the Department used to compute her gross income; petitioner disputes the income limits used by the Department and asks that an exception be made due to her circumstances. The following decision is based upon the income information petitioner supplied to the Department.

FINDINGS OF FACT

1. The petitioner lives with her minor child and receives food stamps as a household of two.

2. The petitioner is employed through the St. Albans school district and earns \$12.14 per hour; petitioner works 32.5 hours per week. Petitioner is paid over the course of the school year or over a ten month period. Petitioner also receives child support in the amount of \$150 per week or \$645 per month.

3. The petitioner appeared before the assigned hearing officer regarding an identical issue last year. In Fair Hearing No. 20,741, the Human Services Board found that petitioner did not qualify for food stamps because the income from her employment and child support was greater than the eligibility standards for food stamps. Petitioner was advised that she could reapply for food stamps for the summer months because her income would be less during the period she was not employed.

4. The petitioner did reapply for food stamps at the end of the 2006-2007 school year and was found eligible for food stamps.

5. The petitioner next submitted a food stamp application dated August 31, 2007 stating that she would receive her first paycheck on or about September 6, 2007.

6. The Department sent a Notice on September 18, 2007 stating that petitioner's food stamp case would close September 30, 2007 because her income exceeded the maximum monthly gross income for a two person household of \$1,430. The Department calculated petitioner's monthly income as \$1,388.81 gross earned income (wages) and \$645 unearned income (child support) for a total of \$2,033.81. The Department also informed petitioner that her current food stamp overpayment was \$2,282.

7. Petitioner requested a fair hearing prior to September 30, 2007 and has been receiving continuing benefits from the Department.

ORDER

The Department's decision is affirmed.

REASONS

To meet the eligibility standards for the food stamp program, an applicant must have income that meets both the net and gross income standards. The gross income standard is set at 130 percent of the Federal Poverty Level and the net

income standard is set at 100 percent of the Federal Poverty Level. Food Stamp Manual § 273.9(a).

Because petitioner is employed through a school district, petitioner has significantly less income during the two summer months in which she does not receive wages and may be eligible for food stamps during that time period.<sup>1</sup> Although petitioner finds that her income is not sufficient during the school year, the Board must apply the income standards set by federal law and incorporated in Vermont's Food Stamp Manual and Procedures.

The Department has accurately computed petitioner's gross income. Petitioner's monthly household income of \$2,033.81 is in excess of the gross monthly income limit of \$1,430 for a household of two.<sup>2</sup> Procedures 2590-C. Accordingly, the Department's finding that the petitioner is

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<sup>1</sup> Because petitioner made a timely request for a fair hearing, she has been receiving continuing benefits. These benefits will become an overpayment and will be added to petitioner's underlying overpayment. Petitioner needs to understand that if she finds herself in the same situation next summer, her eligibility will stop upon her return to her school employment unless her income is significantly reduced and she falls within the food stamp guidelines. To request a fair hearing with continuing benefits that raises the same issues as this fair hearing may be construed an abuse of the hearing process.

<sup>2</sup> At the time of petitioner's application, the maximum monthly gross income level was \$1,430. On October 1, 2007, the maximum monthly gross income level for a family of two was raised to \$1,484. Petitioner's income is in excess of the new standard.

ineligible for food stamps based on her gross income is affirmed. 3 V.S.A § 3091(d); Fair Hearing Rule No. 17.

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THIS MATTER WILL BE CONSIDERED BY THE BOARD AT A MEETING ON WEDNESDAY, JANUARY 9, 2008. THE MEETING WILL BE HELD AT THE COMMUNITY NATIONAL BANK, 316 NORTH MAIN STREET - 2<sup>nd</sup> FLOOR CONFERENCE ROOM, BARRE, VERMONT. THE MEETING WILL BEGIN AT 10:00 A.M.